

Council File # _____

Ordinance # _____

Green Sheet # _____

**ORDINANCE
CITY OF SAINT PAUL, MINNESOTA**

Presented By _____

Referred To _____ Committee Date : _____

An ordinance adding
Chapter 98 to the
Saint Paul Administrative Code
for the purpose of establishing Saint Paul's Living Wage Requirements

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN

Section 1

Chapter 98 of the Saint Paul Administrative Code is hereby amended to include the following new chapter:

Chapter 98. Living Wage

Sec. 98.01. SHORT TITLE.

This Ordinance shall be called the "Saint Paul Living Wage and Responsible Public Spending Ordinance."

Sec. 98.02. PURPOSE.

Recognizing that the City awards business subsidies and is a major contractor for services, the City enacts this Ordinance to promote the creation and retention of living wages and full time positions, and to increase the wages of service employees and employees whose employers are subsidized by the City or whose employer enters into a contract with the City in order to improve public health and welfare, promote the economic strength of the City, and reduce the pressure on governmental services and programs. Nothing in this Chapter shall abrogate or modify any rights or obligations specified in Chapter 85 of the Saint Paul Administrative Code.

Sec. 98.03. DEFINITIONS.

- A. "Basic health insurance" means (1) an insurance or self-insured group health plan including any federally approved self-funded plan established under the Employee Retirement Income Security Act of 1974 (ERISA) as amended where an employer pays at least seventy-five (75) percent of the premium for individual coverage

plus fifty (50) percent of the premium for family coverage; deductibles and out-of-pocket maximums cannot be greater than those allowed by the Internal Revenue Service for Health Reimbursement Arrangements and plan design must meet the minimum required by Health Reimbursement Arrangements and State Law (2) a deductible insurance plan offered by an employer where in-network deductibles do not exceed twenty-five (25) percent for office visits, inpatient care, outpatient care and/or urgent/emergency care, there is a one thousand five hundred dollars (\$1,500.00) out of pocket maximum for individual and three thousand dollars (\$3,000.00) out of pocket maximum for family, and any out-of-network deductible plan's out-of-pocket maximum does not exceed two thousand dollars (\$2,000.00) for individual and four thousand dollars (\$4,000.00) for family; or (3) an employer offers a health plan not less in value than that provided to first level supervisory employees provided that the benefit costs employers a minimum of seventy-five (75) percent of the difference between one hundred ten (110) percent and one hundred thirty (130) percent of the federal poverty level for a family of four (4).

- B. "City" means the City of Saint Paul and the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota.
- C. "City Contractor" means a for-profit or not-for-profit entity or person that is a party to a City Contract.
- D. "City Contract" means a contract for services and any amendments thereto between the City and City Contractor not covered by Section 82.07 of the Administrative Code with the City valued in the aggregate at \$100,000 or more. A City Contract does not include (a) a contract whereby the City Contractor manages City owned land and/or improvements on behalf of the City's parks department and the City Contractor pays a portion of the revenues to the City or (b) a contract whereby the City Contractor provides depository and/or financial services to the City, or (c) a contract whereby the City Contractor provides contract health care benefits to city employees. Nothing in this Chapter shall abrogate or modify any rights or obligations specified in Chapter 85 of the City's Administrative Code.
- E. "City Business Subsidy" means any of the following extended by the City to a recipient with a value of \$100,000 or more: (a) a grant, (b) a contribution of personal property, (c) a contribution of real property, (d) with respect to a loan given by the City, the present value of the difference in the interest rate given by the City and that rate commercially available to the recipient, (e) any reduction or deferral of any tax, assessment or fee, (f) any guarantee of any payment under any loan, lease, or other obligation, (g) tax increment financing, (h) the issuance of revenue bonds, (i) tax credits, or (j) other City participation. Conduit bonds and infrastructure are not a City Business Subsidy.
- F. "City Business Subsidy Recipient" means a for-profit or not-for-profit entity that receives a City Business Subsidy.
- G. "City Subcontract" means a contract for services between a City Contractor and City Subcontractor valued at \$100,000 or more to perform a portion of the services described in a City Contract.

- H. “City Subcontractor” means a for-profit or not-for-profit entity or person that is a party to a City Subcontract.
- I. “Job readiness and training services” means services whose purpose and intent is to help individuals establish a stable work history by addressing the social and economic barriers to employability, including training, apprenticeship, and adequate day care.
- J. “Sole source” means a source of products or services that is the only viable market option for the City.
- K. “Tenant” means the initial for-profit or not-for-profit entity or person that leases from a City Business Subsidy Recipient space in the specific location for which the City Business Subsidy was provided, or if there is more than one such initial entity or person then it means the entity or person that leases the greatest amount of space and any entity or person that leases space of 15,000 or more square feet.
- L. “Tenant Subcontractor” means a person, other than an employee of a Tenant, who performs services at the specific location for which the City Business Subsidy was provided under a contract between that person or that person’s employer and a Tenant.

Sec. 98.04. . LIVING WAGE/JOB CREATION AND RETENTION

A. PAYMENT OF LIVING WAGE

- 1. City Contract; City Subcontract. Any City Contract, or City Subcontract must require City Contractors and City Subcontractors to pay an hourly wage that is at least the living wage for the duration of the contract to each employee who is working pursuant to the City Contract or City Subcontract or who is employed in the specific location for which the City Contract or City Subcontract is intended to benefit.
- 2. City Business Subsidy. Any City Business Subsidy Recipient and Tenant must agree to pay an hourly rate that is at least the living wage to each employee who is employed in the location for which the City Business Subsidy was provided and a Tenant must pay at least a living wage to each Tenant Subcontractor for the longer of the following: (a) the duration of the City Business Subsidy Agreement, or (b) three years.

B. CALCULATION OF LIVING WAGE

The living wage shall be a wage level equivalent to at least 130 percent of the federal poverty level for a family of four. For employers that provide employees basic health insurance, the living wage shall be a wage level equivalent to at least 110 percent of the federal poverty level for a family of four. The living wage shall be based on the then current federal poverty level and shall be adjusted within one week after the federal

government adjusts the rate.

C. JOB CREATION AND RETENTION

A City Business Subsidy Recipient must enter into a City Business Subsidy agreement with the City that includes:

- (1) a description of the subsidy;
- (2) a statement of the public purpose for the subsidy;
- (3) goals for the number of jobs created and/or retained; and
- (4) wage goals for any jobs created and/or retained.

D. APPROVAL OF CITY CONTRACT AND CITY BUSINESS SUBSIDY

All City Contracts and City Business Subsidies must be approved by the Saint Paul City Council and/or the Board of Commissioners of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota by a resolution approving a budget or the City Contract or City Business Subsidy.

E. EXEMPTIONS

1. Entities. The following entities are exempt from the living wage requirement:
 - a. any incorporated entity, organized for profit, that falls within the definition of a small business under Minnesota Statute 645.445;
 - b. any 501 (c) entity which falls under the criteria laid out in Minnesota Statute 645.445, subdivision 2;
 - c. a recipient of a City Contract, City Business Subsidy or City Subcontract that contains an express provision that the purpose of the contract or subsidy is job readiness and training services and that the recipient is exempt from the living wage requirement;
 - d. any recipient of a City Contract, City Business Subsidy or City Subcontract for whom the City Council determines that application of the living wage requirement would conflict with a state or federal law or program requirement;
 - e. any recipient of a City Contract, City Business Subsidy or City Subcontract which is bound by a collective bargaining agreement for the period of the contract or the subsidy;
 - f. any recipient that is an intermediary, such as a community development corporation, community investment group, or community bank, which serves as a pass-through agency for the granting of assistance;
 - g. 501 (c) entities that are sole source providers of product or service.

2. Employees.

a. A recipient of a City Contract, City Subcontract, or City Business Subsidy and a Tenant may request and obtain exemptions from the living wage requirements for the following types of employees:

1. Temporary internships or similar positions that are intended to provide career exposure to new entrants to the workforce, lasting no more than 12 consecutive months;

2. Individuals who are placed with the employer as the result of a job readiness or job training program or who are participants in an employment program that provides work opportunities for those with serious mental and physical barriers to employment or similar employer sponsored work opportunity program for individuals with serious mental and physical barriers to employment;

3. Seasonal, part-time or temporary employees whose employment does not reduce or offset the work of permanent employees, on the conditions that (a) no more than ten percent (10%) of such seasonal, part-time or temporary employees can be exempted, and (b) that the City Contractor, City Subcontractor or City Business Subsidy Recipient is not intending to utilize such labor to avoid the requirements of this ordinance.

F. ENFORCEMENT

1. Any recipient of a City Contract or City Subcontract that fails to meet the living wage requirements of this Ordinance at any time during the duration of the contract, and any City Business Subsidy Recipient that fails to meet the living wage or wage goals and other requirements of this Ordinance at any time during the duration of the subsidy, shall (a) not be eligible for a City Business Subsidy or City Contract in the next contract cycle or the next calendar year; and (b) shall repay to the city an amount determined as follows: the entire value of the contract or subsidy if compliance is less than 50% of the requirement, one-half of the value of the contract or subsidy if compliance is 50% or more but less than 80% of the requirement, and proportionate to the value of the contract or subsidy if compliance is 80% or more but less than 100% of the requirement.

2. No City Contractor, City Subcontractor City Business Subsidy Recipient or Tenant shall discharge, demote, harass, or otherwise take adverse action against any individual because such individual seeks enforcement of the living wage requirement or testifies, assists, or participates in any manner in an investigation, hearing, or other proceeding to enforce this Ordinance.
3. No City Contractor, City Subcontractor City Business Subsidy Recipient or Tenant shall split or subdivide a contract or subsidy, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor to avoid payment of a living wage.
4. This Ordinance shall be enforced by the Department of Planning and Economic Development, or its successor agency, with respect to a City Business Subsidy, which shall propose regulations for Council approval as are necessary to implement and administer compliance with the City Business Subsidy. This Ordinance shall be enforced by the Office of Financial Services or its successor agency, with respect to a City Contract, which shall propose regulations for Council approval as are necessary to implement and administer compliance with the City Contract. Enforcement shall include but not be limited to receiving, investigating and attempting to resolve complaints by employees and Tenant Subcontractors.
5. Any recipient of a City Contract or City Business Subsidy or City Subcontract or Tenant shall provide written notice to its employees that they may be covered by the terms of this Ordinance as specified in section 98.04 (A) and shall also provide its employees a written copy of this Ordinance.

Sec. 98.05. APPLICATION.

This Ordinance shall apply to any City Contract, City Subcontract or City Business Subsidy executed after the effective date of this Ordinance.

Sec. 98.06 SEVERABILITY.

If any provision or application of this Ordinance is declared illegal, invalid, or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid, or inoperative shall remain in force or effect.

Sec. 98.07. WAIVER FOR CITY BUSINESS SUBSIDY.

A. PRIOR TO EXECUTION OF CITY BUSINESS SUBSIDY AGREEMENT

The requirements of this Ordinance may be waived in whole or in part by the City Council or HRA Board of Commissioners prior to the execution of a City Contract or City Business Subsidy agreement after a public hearing, consideration of both advantages and disadvantages of a waiver, and upon a finding of a compelling public purpose.

B. AFTER EXECUTION OF CITY BUSINESS SUBSIDY AGREEMENT

Any City Business Subsidy Recipient who can demonstrate that it will suffer an economic hardship due to the occurrence of significant unforeseen circumstances beyond the control of the City Business Subsidy Recipient that have occurred subsequent to the City Business Subsidy agreement may request a waiver from the requirements of this Act and such waiver may be given by the City Council or HRA Board of Commissioners.

Section 2

This Ordinance adding Administrative Code Chapter 98 shall become effective thirty (30) days after passage, approval and publication as provided in the City Charter, Section 6.11.

	Yeas	Nays	Absent
<i>Benanav</i>			
<i>Bostrom</i>			
<i>Harris</i>			
<i>Helgen</i>			
<i>Lantry</i>			
<i>Montgomery</i>			
<i>Thune</i>			

Requested by Department of: _____

By: _____

Form Approved by City Attorney

Adopted by Council: Date _____

By: _____

Adoption Certified by Council Secretary

Approved by Mayor for Submission to Council

By: _____

By: _____

Approved by Mayor: Date _____

By: _____